



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
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Denver, Colorado 80225-0007



May 27, 2005

ER 05/348

Victoria Rutson, Chief  
Section of Environmental Analysis  
Case Control Unit  
Finance Docket No. 33407  
Surface Transportation Board  
1925 K Street, NW  
Washington, D.C. 20423-0001

Dear Ms. Rutson:

The Department of the Interior (Department) has reviewed the Draft Supplemental Environmental Impact Statement (DSEIS) for the Dakota, Minnesota, and Eastern Railroad (DM&E) Powder River Basin Expansion Project (STB Finance Docket No. 33407), and provides the following comments.

## Threatened and Endangered Species

The U.S. Fish and Wildlife Service (USFWS) began coordination with the Surface Transportation Board (Board) regarding the Powder River Basin Expansion Project in 1998. Since then, the USFWS has provided comments dated March 6, 2001, regarding the Draft EIS for the project. Additionally, the USFWS provided a biological opinion dated October 26, 2001, to the Board in compliance with the Endangered Species Act of 1973 (Act), as amended, 50 CFR §402.13. Consultation addressed effects associated with (1) new rail construction including approximately 280 miles of rail line extending from DM&E's existing system near Wall, South Dakota, southwesterly to Edgemont, South Dakota, and then westerly into Wyoming to connect with existing coal mines located in Converse and Campbell counties, Wyoming; (2) additional new rail construction of approximately 14 - 17 miles connecting two DM&E lines at Mankato, Minnesota; (3) approximately 1 - 3 miles of new rail line construction near Owatonna, Minnesota, to connect the DM&E lines with the I&M Rail Link; (4) rebuilding of DM&E's mainline between Wall, South Dakota, and Winona, Minnesota; and (5) rebuilding of approximately 5 miles of existing rail line near Smithwick, South Dakota.

In reviewing the DSEIS, USFWS has considered the new information presented regarding the anticipated increase in production of coal in the Powder River Basin and whether this projected

increase in coal production is likely to result in effects that may affect listed or proposed species or designated or proposed critical habitat in a manner or to an extent not considered in our 2001 consultation. The results of the coal transportation rate sensitivity analysis provided by the Energy Information Administration as Appendix G of the DSEIS indicate coal production in the Powder River Basin is likely to increase on average between 1 and 3 percent, depending upon transportation rates. The USFWS believes that an increase of this magnitude (3 percent or less) in coal production in the Powder River Basin is not likely to result in effects to listed species that differ significantly from those effects analyzed during their 2001 consultation. However, if coal production increases at a rate greater than anticipated in the DSEIS, the Board should contact the USFWS and the project should be reanalyzed to determine whether listed or proposed species or designated or proposed critical habitat may be affected in a manner or to an extent not considered in the 2001 consultation, in which case reinitiation of consultation may be appropriate.

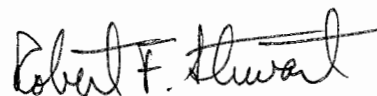
#### Badlands National Park

We continue to be concerned with the impacts of the project on Badlands National Park wilderness resources.

The EIS specifically addresses noise reduction in communities that were subject of the remand (*Mid States Coalition for Progress v. STB*, 345 F.3d 520). In the original decision, the Board imposed a mitigation measure regarding horn noise, requiring DM&E to consult with communities to address the “quiet zone” designations being created for communities who wish to mitigate noise by the Federal Railroad Administration (FRA). At the time of the final EIS, the FRA had not finalized its standards for horn noise, but we note the DSEIS acknowledges the interim rules have now been released. We can assume the park, with designated wilderness, could approach the FRA with a request of “quiet zone” designation, but this is not discussed in any detail in either EIS. It would also have been very helpful if either the original or DSEIS had identified the crossings where horns are likely to be sounded and “quiet zones” may be appropriate. We are concerned that the project can be permitted, acknowledging there may be impacts from horn noise, but without constraints on DM&E other than to consult with another Federal Agency to mitigate the impacts.

The Department appreciates the opportunity to comment on the DSEIS. If you have any questions or comments regarding threatened and endangered species, please contact Mary Jennings in the USFWS Wyoming Field office at (307) 772-2374, extension 32. For matters related to concerns of Badlands National Park, please contact Regional Environmental Coordinator Nick Chevance, National Park Service, Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102, telephone 402-661-1844.

Sincerely,



Robert F. Stewart  
Regional Environmental Officer